

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Christopher M. SCHMANDT, et al.

Application No.: 09/912,352

Group Art Unit: 2614

Confirmation No.: 5411

Filed: July 26, 2001

Examiner: Gauthier, Gerald

For: Voice-based Message Sorting and Retrieval Method

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is responsive to the Office Action mailed October 10, 2008, having a shortened period for response set to expire on November 10, 2008, the following remarks are provided.

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Per a telephone communication, the Examiner has issued a new Office Action since the previous two Actions erroneously grouped some claims. The Examiner is respectfully requested to contact the undersigned if there are any pending matters so to expedite prosecution of the application.

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicants provisionally elect claims 1-29, 44-48 and 52-63 (indicated as Group I) in the Restriction Requirement dated October 10, 2008.

II. Applicants Traverse the Requirement

Insofar as Group II (claims 31-41 and 49-51) and Group III (claim 64) are concerned, it is believed that claims 31-41 and 49-51 and 64 are so closely related to elected claims 1-29, 44-48 and 52-63 that they should remain in the same application. The elected claims 1-29, 44-48 and 52-63 directed to categorizing messages, for example, may be used for presenting newly-arrived messages (claims 31-41 and 49-51) including where an addressee manages the sorting of the

messages (claim 64). There have been no references cited to show any necessity for requiring restriction, and in fact, it is believed that the Examiner would find references containing the asserted groups of claims in the same field of technology. Further, the Applicants respectfully submit that evaluation of all claims would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to the Applicants in having to protect the additional subject matter recited by the Group II and/or Group III claims by filing a divisional application.

MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is required.

III. Conclusion

Upon review of references involved in this field of technology, when considering that elected claims 1-29, 44-48 and 52-63, claims 31-41 and 49-51 and claim 64 are respectively directed to categorizing, sorting and retrieval of messages, and when all of the other various facts are taken into consideration, it is believed that all of the pending claims should be examined in the subject application.

Respectfully submitted,

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Date: November 8, 2008

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